

REMARKS/ARGUMENTS

Claims 1-60 are pending in the present application.

This Amendment is in response to the final Office Action mailed May 19, 2003. In the final Office Action, the Examiner rejected claims 1-60 under 35 U.S.C. §103(a). Applicants have amended claims 1, 13, 25, 37 and 49. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Claim Objection

1. The Examiner objected to claim 60 due to informalities. In response, Applicants have amended claim 60 to correct the claim dependence. Accordingly, Applicants respectfully request the objection be withdrawn.

Rejection Under 35 U.S.C. § 103

1. In the final Office Action, the Examiner rejected claims 1-60 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,917,804 issued to Shah et al. ("Shah"). The Examiner further rejected claims 12, 24, 36, 48 over Shah in view of U.S. Patent Application No. US2002/0057649 by Kinnunen ("Kinnunen"). Applicants respectfully traverse the rejection and contend that the Examiner has not met the burden of establishing a prima facie case of obviousness.

Applicants reiterate the arguments set forth in the previously filed Response to the Office Action.

Shah discloses a connection admission control for ATM networks handling CBR and VBR services. Two calculation schemes are used: one is based on a fluid flow model and one is

based on a cell loss probability (Shah, col. 6, lines 32-38). The inputs to the algorithm include: connection traffic parameters, QoS values, and the expected CBR traffic load (Shah, col. 8, lines 55-59).

Kinnunen discloses a connected admission in a communications network. Results of the calculations that are likely to be made repeatedly are cached (Kinnunen, page 2, paragraph [0013]). A cache block caches previous requests and their calculated results (Kinnunen, page 2, paragraph [0026]).

Applicants respectfully submit, however, that Kinnunen is technically not prior art under 35 U.S.C. § 102 or § 103. Kinnunen was filed in the United States on December 10, 2001, after the February 2, 2000 filing date of the present application. Kinnunen is a continuation of application no. PCT/FI00/00345, filed April 20, 2000, which was after the February 2, 2000 filing date of the present application. The foreign priority dates of June 8, 1999 and November 15, 1999 for Kinnunen are not effective for prior art purposes against the present application because those dates are for foreign (non-U.S.) patent applications.

Therefore, Kinnunen is not prior art.

Shah does not disclose, suggest, or render obvious (1) estimating a measured utilization factor for admitted connections using measurements of data streams and the booking factor, (2) estimating minimum resource within a measurement window, and (3) generating measured utilization factor using the estimated minimum resource and measurement parameters.

The Examiner states that Shah suggested optimizing resource utilization and adequate satisfaction of QoS are the basis for selecting routes and accepting connections (Office Action, page 2). Applicants respectfully disagree. The resource utilization is related to allocating appropriate bandwidth (Shah, col. 1 lines 30-31), not to the “measured utilization factor for

admitted connections” as recited in independent claims 1, 13, 25, 37, and 49. Shah merely discloses two calculation schemes using the connection traffic parameters, QoS values, and the expected CBR traffic load. These parameters are not the measurements of the data streams arriving at queues. Furthermore, Shah does not disclose use of booking factor. Shah merely disclose characterization by the peak and mean rates of the connection, and the maximum burst size (Shah, col. 6, lines 50-53).

The Examiner further states that Kinnunen teaches the estimators comprising a capacity estimator and a measured utilization factor generator (Office Action, page 4, last sentence; page 5, first two paragraphs; page 8, last sentence; page 9, first two paragraphs). As discussed above, Kinnunen is technically not prior art.

For the similar reasons, dependent claims 2-12, 14-24, 26-36, 38-48, 50-60 which depend on independent claims 1, 13, 25, 37, and 49, respectively, are distinguishable from the cited prior art reference.

Therefore, applicants believe that independent claims 1, 13, 25, 37, 49 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejection(s) under 35 U.S.C. §103(a) be withdrawn.

Applicants reserve all rights with respect to the applicability of the Doctrine of Equivalents.

Conclusion

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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